

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

TIMOTHY DEFOGGI,

Defendant.

8:13CR105

ORDER

This matter comes before the Court on Defendant's, Timothy Defoggi's, Notices of Appeal. [Filing No. 516](#); [Filing No. 517](#); [Filing No. 518](#); [Filing No. 519](#). Defoggi seeks to appeal the Court's order denying this third motion for compassionate release. [Filing No. 515](#). The Court received three notices of appeal on the same date, dated September 12, September 17, and September 18, 2024, apparently due to a mailing issue within the Bureau of Prisons. [Filing No. 516](#); [Filing No. 517](#); [Filing No. 518](#). The Court then received a fourth mailing entitled notice of appeal, this time from a person named Jimmy Dale Bounds, purporting to act on Defoggi's behalf as power of attorney. [Filing No. 519](#).

There is no indication that Mr. Bounds is a licensed attorney, nor has he attempted to enter an appearance as counsel in this case. Defoggi terminated his prior counsel's representation. [Filing No. 503](#). As a non-attorney, Mr. Bounds cannot represent Defoggi in this Court. See [28 U.S.C. § 1654](#) ("In all courts of the United States the parties may plead and conduct their own cases personally or by counsel . . ."). Defoggi can elect to proceed pro se or may retain another licensed attorney to represent him.

The Court will accept Defoggi's earliest-mailed notice of appeal, [Filing No. 516](#). However, "[a] litigant seeking to appeal a judgment must either pay the required filing fees . . . or proceed in forma pauperis." [Swift v. Williams, No. 8:17CV331, 2017 WL 6812606, at *1 \(D. Neb. Dec. 13, 2017\)](#) (citing 28 U.S.C. § 1915; Fed. R. App. P. 3, 24). Defoggi has not

paid the filing fee nor filed a motion and affidavit seeking leave to proceed in forma pauperis nor has he previously been granted in forma pauperis status. Thus, the Court denies him leave to proceed in forma pauperis on appeal and orders him to pay the appellate filing fee.

IT IS ORDERED:

1. Defendant is denied leave to proceed in forma pauperis.
2. The Clerk of Court is directed to mail a copy of this order to Defendant at his last known address; and
3. The Clerk of the Court is ordered to provide a copy of this Order to the United States Court of Appeals for the Eighth Circuit along with notification of Defendant's first notice of appeal, [Filing No. 516](#).
4. The duplicative notices of appeal, [Filing No. 517](#); [Filing No. 518](#), and [Filing No. 519](#), are denied.

Dated this 23rd day of September, 2024.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge